

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

KENDRA SWAIN,

No. 1:15-CV-3003-FVS

ORDER FOR REMAND

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting

Commissioner of Social Security,

Defendant.

The parties filed a stipulated motion for remand. (**ECF No. 17.**) After consideration, IT IS ORDERED that the **motion is granted**. The Commissioner's final decision is reversed and remanded for further proceedings pursuant to sentence four of 42 U.S.C. §405(g). Upon remand to the Commissioner of Social Security, the Appeals Council will remand this case to the Administrative Law Judge (ALJ) to further evaluate whether plaintiff's condition meets or equals Listing 12.05. The ALJ will provide the opportunity for a new hearing and update the evidence of record to address the validity of the intelligence testing currently in the record, and if necessary, obtain a consultative examination with valid intelligence testing. If the claimant does not meet or equal a listing, the Administrative Law Judge will reweigh the medical opinion of medical expert, Scott Mabee, Ph.D., and articulate the weight assigned the opinion and the reasons for that weight. The ALJ will reevaluate the opinions of Dr. Ahmed Tarique, M.D, and provide legally sufficient

1 reasoning for the weight assigned. The Administrative Law Judge will reassess the claimant's
2 residual functional capacity as necessary, providing appropriate rationale with specific references
3 to evidence of record in support of the assessed limitations, and obtain additional vocational expert
4 evidence. The ALJ will make a de novo determination as to disability and issue a new decision.

5 The parties stipulate that this case be reversed and remanded to the ALJ on the above
6 grounds pursuant to sentence four of 42 U.S.C. § 405(g). Therefore, the matter is remanded to the
7 Commissioner for additional proceedings pursuant to sentence four 42 U.S.C. 405(g). Upon proper
8 presentation, this Court will consider plaintiff's application for costs and attorney's fees under 28
9 U.S.C. § 2412(d).

10 The District Court Executive is directed to file this Order and provide a copy to counsel for
11 plaintiff and defendant. Judgment shall be entered for plaintiff and the file shall be **CLOSED**.

12 DATED October 13, 2015.

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s/Fred Van Sickle
Fred Van Sickle
Senior United States District Judge